

CHAPTER NO. 949

HOUSE BILL NO. 3202

**By Representatives Odom, Pruitt, West, Sherry Jones, Briley, Mike Turner,
Moore**

Substituted for: Senate Bill No. 3174

By Senators Harper, Haynes

AN ACT to amend Tennessee Code Annotated, Title 13, Chapter 21,
relative to residential rental inspections.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF
TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 13, Chapter 21, is
amended by adding the following language as a new part:

Section 13-21-301. For the purposes of this part, unless the
context otherwise requires:

(1) "Deteriorated" means any structure or vacant or
unimproved lot or parcel in a predominantly built-up neighborhood:

(A) Which, because of physical condition or use, is
regarded as a public nuisance at common law or has been
declared a public nuisance in accordance with local
housing, building, plumbing, electrical, fire, health or
related codes;

(B) Which, because of physical condition, use or
occupancy is considered an attractive nuisance;

(C) Which, because it is dilapidated, unsanitary,
unsafe, vermin-infested or other condition, has been
designated by the appropriate agency or department of the
municipality as unfit for human habitation or use;

(D) Which is a fire hazard, or is otherwise
dangerous to the safety of persons or property;

(E) From which the utilities, plumbing, heating,
sewerage or other facilities have been disconnected,
destroyed, removed, or rendered ineffective so that the
property is unfit for human habitation or use;

(F) Which, by reason of neglect or lack of
maintenance, has become a place for accumulation of
trash and debris, or a haven for rodents or other vermin;

(G) Which has been tax delinquent for a period of at least three (3) years; or

(H) Which has not been rehabilitated within the time constraints placed upon the owner or party in interest by the municipality;

(2) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith;

(3) "Dwelling unit" means a building or structure or part thereof that is used for a home or residence by one (1) or more persons who maintain a household;

(4) "Governing body" means the council, commission, or board, or other legislative body, charged with governing a municipality;

(5) "Municipality" means any county, including any county having a metropolitan form of government, or incorporated city or town in this state;

(6) "Owner" means the holder of the title to real property and every mortgagee of record;

(7) "Parties in interest" means all individuals, associations, corporations and others who have interests of record in a structure and any who are in possession thereof;

(8) "Public authority" means any department, agency or branch of the government of the municipality or state relating to health, fire, building regulations, or other activities concerning structures in the municipality;

(9) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who are authorized by ordinance adopted hereunder to exercise the power prescribed by such ordinances and by this part;

(10) "Residential rental dwelling unit" means a dwelling unit that is leased or rented to one (1) or more tenants. However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless otherwise provided by the zoning ordinance of the municipality; and

(11) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.

Section 13-21-302.

(a) The governing body of a municipality may adopt an ordinance to inspect residential rental dwelling units that are either deteriorated or in the process of deteriorating for compliance with applicable local housing, building, plumbing, electrical, fire, health or related codes and to promote the health, safety and welfare of its citizens in accordance with the following:

(1) The dwelling units shall be located in a residential rental inspection district established by the local governing body in accordance with this section, and

(2) The residential rental inspection district shall be based upon a finding by the local governing body that:

(A) There is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the designated residential rental inspection district;

(B) The residential rental dwelling units within the designated residential rental inspection district are either deteriorated or in the process of deteriorating or the residential rental dwelling units are in the need of inspection by the municipality to prevent deterioration, taking into account the number, age and condition of residential dwelling rental units inside the proposed residential rental inspection district; and

(C) The inspection of residential rental dwelling units inside the proposed residential rental inspection district is necessary to maintain the health, safety and welfare of tenants and other residents living in the proposed residential rental inspection district. Nothing in this section shall be construed to authorize a municipality-wide residential rental inspection district and a local governing body shall limit the boundaries of the proposed residential rental inspection district to such areas of the municipality that meet the criteria set forth in this section.

(b) For purposes of this part, the local governing body of the municipality may designate any local government department

or agency to serve as the public authority to perform all or part of the duties authorized by this part.

Section 13-21-303. Upon adoption by the municipality of a residential rental inspection ordinance relating to residential rental dwelling units that are either deteriorated or in the process of deteriorating, the public authority shall make reasonable efforts to notify owners and parties in interest of residential rental dwelling units in the designated residential rental inspection district regarding the adoption of the residential rental inspection ordinance. The public authority shall provide a summary of the provisions of the residential rental inspection ordinance to owners and parties in interest of residential rental dwelling units in the designated residential rental inspection district.

Section 13-21-304. The residential rental inspection ordinance may include a provision that requires the owners and parties in interest of dwelling units in a residential rental inspection district to notify the public authority in writing if the dwelling unit is used for residential rental purposes. The public authority may develop a form for such purposes. The residential rental inspection ordinance shall not include a registration fee or a fee of any kind associated with the written notification pursuant to this section. A residential rental inspection ordinance shall not require that the written notification from the owner or party in interest of a dwelling unit subject to the residential rental inspection ordinance be provided to the public authority in less than sixty (60) days after the adoption of a residential rental inspection ordinance. However, there shall be no penalty for the failure of an owner or party in interest of a residential rental dwelling unit to comply with the provisions of this section, unless and until the public authority provides actual or written notice to the property owner or party in interest, as provided in this part. For purposes of this part, notice sent by regular first class mail to the last known address of the owner or party in interest shall be deemed in compliance with this section.

Section 13-21-305. Upon establishment of a residential rental inspection district in accordance with this part, the public authority may, in conjunction with the written notifications as provided for in this part, proceed to inspect dwelling units that are either deteriorated or in the process of deteriorating located in the designated residential rental inspection district to determine if the dwelling units are being used as a residential rental property and to determine if the dwelling units are in compliance with applicable housing, building, plumbing, electrical, fire, health or related codes.

Section 13-21-306. Except as provided in 13-21-307, following the initial inspection of a residential rental dwelling unit found to be deteriorated or in the process of deteriorating, the public authority may inspect periodically any residential rental dwelling unit that is deteriorated or in the process of deteriorating that is not otherwise exempted by this part.

Section 13-21-307. Following the initial or periodic inspection of a residential rental dwelling unit found to be deteriorated or in the process of deteriorating and which is subject to a residential rental inspection ordinance, the public authority has the authority to require the owner or party in interest of such dwelling unit to submit to such follow-up inspections of the dwelling unit as the public authority deems necessary, until such time as the dwelling unit is brought into compliance with the provisions of all applicable housing, building, plumbing, electrical, fire, health or related codes.

Section 13-21-308. Following the initial or periodic inspection of a residential rental dwelling unit found to be deteriorated or in the process of deteriorating and which is subject to a residential rental inspection ordinance, and provided that there are no violations of applicable codes and ordinances, or such violations are remedied in a timely manner, the public authority shall provide to the owner or party in interest of such residential rental dwelling unit an exemption from the residential rental inspection ordinance for a minimum of four (4) years. For the purposes of this section, timely manner shall be construed to mean less than ninety (90) days after the owner has been given notice of violation. If a residential rental dwelling unit has been issued a certificate of occupancy within the last four (4) years, an exemption shall be granted for a minimum period of four (4) years from the date of the issuance of the certificate of occupancy by the public authority. If the residential rental dwelling unit becomes in violation of local housing, building, plumbing, electrical, fire, health or related codes during the exemption period, the public authority may revoke the exemption granted by this section.

Section 13-21-309. The residential rental inspection ordinance adopted by the governing body of the municipality may authorize the public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers to:

- (1) Investigate conditions in the municipality in order to determine which residential rental dwelling units therein are deteriorated or in the process of deteriorating;

- (2) Administer oaths, affirmations, examine witnesses, issue subpoenas and receive evidence;

- (3) Enter upon the premises for the purpose of making examinations and inspections; provided, the public officer may enter inside the dwelling unit only with the consent of a person in possession, or with a validly issued search warrant, or in the event of an emergency presenting an immediate threat to the health, safety, and welfare of a person in possession. Such entry shall comply in all respects with the Fourth Amendment to the Constitution of the United States as well as Article I, Section 7, of the Constitution of Tennessee. Such entry shall be made in such

manner as to cause the least possible inconvenience to a person in possession;

(4) Appoint and fix the duties of such officers, agents and employees as the public officer deems necessary to carry out the purposes of the residential rental inspection ordinance; and

(5) Delegate any of such public officer's functions and powers under the residential rental inspection ordinance to such officers and agents as the public officer may designate.

Section 13-21-310. A local governing body may not establish a fee schedule to administer the provisions of the residential rental inspection ordinance which includes a per dwelling unit fee for the initial inspections, follow-up inspections, and periodic inspections of dwelling units that are deteriorated or in the process of deteriorating as authorized by this part. In addition, no fee shall be charged to an owner or party in interest for an inspection of a dwelling unit subject to the residential rental inspection ordinance who has submitted a written notification to the public authority as to the identity of such unit owner or party in interest as provided in §13-21-304, nor shall a fee be charged for a subsequent inspection of a residential dwelling unit that has received an exemption from the residential inspection ordinance for a minimum of four (4) years pursuant to §13-21-308.

Section 13-21-311. The provisions of this part shall not, in any way, alter the rights and obligations of landlords and tenants as set forth by the Uniform Residential Landlord and Tenant Act, compiled in title 66, chapter 28.

Section 13-21-312. Nothing in this part shall be construed to abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law.

Section 13-21-313. The residential rental inspection ordinance adopted by the governing body of the municipality may authorize penalties for the willful failure or refusal of an owner or party in interest to comply with the notice or inspection requirements authorized by this part.

Section 13-21-314. The provisions of this act shall apply to any county having a metropolitan form of government and a population in excess of five hundred thousand (500,000) according to the 2000 federal census or any subsequent federal census. In addition, the provisions of this act shall apply in any city having a population of not less than twenty seven thousand three hundred eighty (27,380) nor more than twenty seven thousand three hundred ninety (27,390) according to the 2000 federal census or any subsequent federal census.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2006, the public welfare requiring it.

PASSED: May 25, 2006


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 20th day of June 2006


PHIL BREDESEN, GOVERNOR